
STATE OF INDIANA



DUAB ADMINISTRATIVE POLICIES AND PROCEDURES

Rule 1. Purpose and Applicability.

The purpose of these procedures is to establish policies and procedures to govern administrative proceedings before the Distressed Unit Appeal Board (DUAB). These definitive policies, procedures, procedural requirements, and evidentiary controls are established in accordance with IC 6-1.1-20.3 and are deemed essential to assure that the administrative appeals before the DUAB are conducted in the most uniform and objective manner possible.

Rule 2. Definitions.

Sec.1. "Petition" defined.

"Petition" means a petition filed with the DUAB

- (a) by the governing body and the superintendent of a school corporation requesting relief from the state counter-cyclical revenue and economic stabilization fund under IC 6-1.1-20.3-8.3; or
- (b) by the governing body and the superintendent of a school corporation requesting review of a financial plan to repay refunding bonds under IC 5-1-5-2.5(d)(3)(A); or
- (c) by the governing body and the superintendent of a school corporation requesting a non-binding review of a bond refunding under IC 5-1-5-2.5(j); or
- (d) by the fiscal body and executive of a political subdivision under IC 6-1.1-20.3-6(a) requesting that the political subdivision be designated as distressed.

Sec. 2. "Quorum" defined.

"Quorum" means a majority of the voting membership of the DUAB.

Note: Since the DUAB has five (5) voting members, a quorum is at least three (3) voting members.

Rule 3. Delivery of Petition.

Sec. 1. The filing of a petition to the DUAB must be made to the Chairman of the DUAB (or designee) by:

- (a) personal delivery;
- (b) deposit in the first class United States mail;
- (c) registered or certified mail;
- (d) private carrier;
- (e) fax; or
- (f) electronic mail (e-mail) as an attachment.

Sec. 2. (a) The postmark date on a petition, correctly addressed and sent by United States:

- (1) first class mail;
- (2) registered mail; or
- (3) certified mail;

shall constitute prima facie proof of the date of filing.

(b) The date on which the petition is deposited with a private carrier, as shown by a receipt issued by the carrier, shall constitute prima facie proof of the date of filing if the document is sent to the DUAB by the carrier.

(c) The date-received stamp affixed to a petition filed by personal delivery shall constitute prima facie proof of the date of filing.

(d) The date-received affixed on a fax of a petition sent by a school corporation or distressed political subdivision shall constitute prima facie proof of the date of filing.

(e) The date-received affixed on an email of a petition sent by a school corporation or distressed political subdivision shall constitute prima facie proof of the date of the filing.

Rule 4. Valid Petitions and Scope of Review.

Sec. 1. Prior to submission of the petition to the DUAB, the petition shall be approved in the form of a resolution by the school board of the petitioning school corporation or the fiscal body of the distressed political subdivision.

Sec. 2. (a) Failure to comply with the petition content requirements specified in Rules 5 through 8 shall be cause for the petition to be returned to the school corporation or distressed political subdivision for correction.

(b) The school corporation or distressed political subdivision shall correct or cure the petition not more than ten (10) calendar days from the date of the notice of the defect.

Sec. 3. (a) Timely filed amendments to the originally filed petition by the school corporation or the distressed political subdivision are permitted.

(b) Amendments to petitions must be filed with the DUAB not more than ten (10) calendar days after the date of filing of the original petition.

(c) Amendments sought later than ten (10) calendar days after the date of filing of the original petition may only be filed with the approval of the chairperson of the DUAB.

Rule 5. Contents of a school corporation's petition requesting relief from the state counter-cyclical revenue and economic stabilization fund.

The contents of the petition shall include the following:

- (a) The loan amount being requested;
- (b) Specific reasons why a loan is needed;
- (c) The plan for how the loan will be used by the school corporation;
- (d) A pro forma financial plan by fund, including a description of the repayment plan for the loan including details as to whether the school corporation is currently running a structural surplus or deficit (include a plan of how any structural deficit will be eliminated if one exists);
- (e) A description of any and all efforts the school corporation has taken to secure temporary cash flow loans from the Indiana Bond Bank or a financial institution;
- (f) Structure and maturity of current debt (including voter approved), itemized (for each bond issue) and aggregated;
- (g) Statement on future capital financing needs (including the amount and timing of any future bond issue);
- (h) Collective bargaining agreements for the past 5 years, including descriptions of any salary increases (include step increases);
- (i) Health care plans and contribution rates for the past 5 years (for teachers, administrators, and school board members), including deductibles, co-pays, co-insurance, and out-of-pocket maximums;
- (j) Total revenue from all sources for each of the past 5 years;
- (k) Total expenditures for each of the past 5 years;
- (l) Detailed expenditures for the most recent completed year (including a breakdown of any travel expenses);
- (m) A list of all contracts valued at more than \$30,000 and the value of each (including all employment contracts);
- (n) Enrollment for each of the past 5 years and projected enrollment for the next 5 years;
- (o) Number of full time equivalent (FTE) employees (broken down by teachers, administrators, etc.) for each of the past 5 years;
- (p) Total certified net assessed values for each of the past 5 years;
- (q) Detailed list of all real property owned by the school corporation;
- (r) Detailed list of all new construction over the last 10 years (include a description of the project, total cost, and relevant year(s))
- (s) Latest calculation of dollars to the classroom;
- (t) Balances of all funds on the final day of the month as of the two most recent semi-annual settlements. For example, a petition filed on June 5, 2012 should include the balances of all funds on December 31, 2011, and June 30, 2011; whereas, a petition filed

- on July 5, 2012 should include the balances of all funds on June 30, 2012, and December 31, 2011;
- (u) Amount of ARRA funds (e.g., Title I, state fiscal stabilization, etc.) actually drawn (with dates) and remaining amounts to be drawn;
 - (v) Amount of EduJobs funds actually drawn (with dates) and remaining amounts to be drawn;
 - (w) Any other information the school corporation or DUAB may consider pertinent.

Rule 6. Contents of a school corporation's petition requesting review of a financial plan to repay refunding bonds.

The contents of the financial plan shall include the following:

- (a) The resolution adopted by the school board under I.C. 5-1-5-2.5(d)(1), including:
 - i. The annual debt service payments, applicable debt service tax rate, and total debt service payments for the bonds proposed to be retired or refunded;
 - ii. The annual debt service payments, applicable debt service fund tax rate, and total debt service payments for the proposed refunding bonds;
 - iii. The annual increment for each year of the life of the bonds proposed to be retired or refunded and any other benefits to be derived from issuing the refunding bonds.
- (b) Structure and maturity of all current debt (including voter approved), itemized (for each bond issue) and aggregated;
- (c) Detailed financial plan for all funds with proposed restructuring of debt with final maturity;
- (d) The additional cost to taxpayers from the proposed restructuring (the additional interest compared to not restructuring);
- (e) Reason why restructuring of debt is necessary demonstrating that the school corporation cannot simply refinance the debt to achieve savings without extending the length;
- (f) A plan of how any savings from debt restructuring will be used;
- (g) Details as to whether the school corporation is currently running a structural surplus or deficit (include a plan of how any structural deficit will be eliminated if one exists);
- (h) Statement on future capital financing needs (including the amount and timing of any future bond issue);
- (i) Collective bargaining agreements for the past 5 years, including descriptions of any salary increases (including step increases);
- (j) Health care plans and contribution rates for the past 5 years (for teachers, administrators, and school board members), including deductibles, co-pays, co-insurance, and out-of-pocket maximums;
- (k) Total revenue from all sources for each of the past 5 years;
- (l) Total expenditures for each of the past 5 years;
- (m) Detailed expenditures for the most recent completed year (including a breakdown of any travel expenses);
- (n) List of all contracts valued at more than \$30,000 and the value of each (including all employment contracts);
- (o) Enrollment for each of the past 5 years and projected enrollment for the next 5 years;

- (p) Number of full time equivalent (FTE) employees (broken down by teachers, administrators, etc.) for each of the past 5 years;
- (q) Detailed list of all real property owned by the school corporation;
- (r) Detailed list of all new construction over the last 10 years (include a description of the project, total cost, and relevant year(s));
- (s) Latest calculation of dollars to the classroom;
- (t) Balances of all funds on the final day of the month as of the two most recent semi-annual settlements. For example, a petition filed on June 5, 2012 should include the balances of all funds on December 31, 2011, and June 30, 2011; whereas, a petition filed on July 5, 2012 should include the balances of all funds on June 30, 2012, and December 31, 2011;
- (u) Amount of ARRA funds (e.g., Title I, state fiscal stabilization, etc.) actually drawn (with dates) and remaining amounts to be drawn;
- (v) Amount of EduJobs funds actually drawn (with dates) and remaining amounts to be drawn;
- (w) Any other information the school corporation or DUAB may consider pertinent.

Rule 7. Contents of a school corporation's petition requesting a non-binding review of a bond refunding.

The contents of the petition shall include the following:

- (a) The resolution adopted by the school board under I.C. 5-1-5-2.5(d)(1), including:
 - i. The annual debt service payments, applicable debt service tax rate, and total debt service payments for the bonds proposed to be retired or refunded;
 - ii. The annual debt service payments, applicable debt service fund tax rate, and total debt service payments for the proposed refunding bonds;
 - iii. The annual increment for each year of the life of the bonds that are being retired or refunded and any other benefits to be derived from issuing the refunding bonds.
- (b) If the refunding/restructuring bonds have been issued at the time the school reports to DUAB, include the documents in (a) revised for the actual results from the restructuring;
- (c) Structure and maturity of all current debt (including voter approved), itemized (for each bond issue) and aggregated;
- (d) The additional cost to taxpayers from the restructuring (the additional interest compared to not restructuring);
- (e) Reason why restructuring of debt was necessary;
- (f) A plan of how any savings from debt restructuring will be used;
- (g) Details as to whether the school corporation is currently running a structural surplus or deficit (include a plan of how any structural deficit will be eliminated if one exists);
- (h) Statement on future capital financing needs (including the amount and timing of any future bond issue);
- (i) Collective bargaining agreements for the past 5 years, including descriptions of any salary increases (include step increases);
- (j) Health care plans and contribution rates for the past 5 years (for teachers, administrators, and school board members), including deductibles, co-pays, co-insurance, and out-of-pocket maximums;
- (k) Total revenue from all sources for each of the past 5 years;

- (l) Total expenditures for each of the past 5 years;
- (m) Detailed expenditures for the most recent completed year (including a breakdown of any travel expenses);
- (n) List of all contracts valued at more than \$30,000 and the value of each (including all employment contracts);
- (o) Enrollment for each of the past 5 years and projected enrollment for the next 5 years;
- (p) Number of full time equivalent (FTE) employees (broken down by teachers, administrators, etc.) for each of the past 5 years;
- (q) Detailed list of all real property owned by the school corporation;
- (r) Detailed list of all new construction over the last 10 years (include a description of the project, total cost, and relevant year(s));
- (s) Latest calculation of dollars to the classroom;
- (t) Balances of all funds on the final day of the month as of the two most recent semi-annual settlements. For example, a petition filed on June 5, 2012 should include the balances of all funds on December 31, 2011, and June 30, 2011; whereas, a petition filed on July 5, 2012 should include the balances of all funds on June 30, 2012, and December 31, 2011;
- (u) Amount of ARRA funds (e.g., Title I, state fiscal stabilization, etc.) actually drawn (with dates) and remaining amounts to be drawn;
- (v) Amount of EduJobs funds actually drawn (with dates) and remaining amounts to be drawn;
- (w) Any other information the school corporation or DUAB may consider pertinent.

Rule 8. Procedures for a petition requesting that the political subdivision be designated as distressed.

[Under Development].

Rule 9: Initial Hearing.

Sec. 1. The DUAB shall conduct an initial hearing within a reasonable time from the date of receipt of a petition. The chairperson of the DUAB shall set the initial hearing date and time on a petition.

Sec. 2. The purpose of the initial hearing is for the DUAB to review the petition and ask questions of the representatives of the school corporation or distressed political subdivision about their financial condition and operating practices.

Sec. 3. The school corporation or distressed political subdivision shall provide the following to the DUAB at the initial hearing:

- (a) Copies of documentary evidence and summaries of statements of testimonial evidence at least five (5) calendar days before the initial hearing;
- (b) A list of witnesses and exhibits to be introduced at the hearing at least five (5) calendar days before the initial hearing; and
- (c) Any other documents, testimony, or exhibits requested by the DUAB.

Sec. 4. Copies of all materials provided to the DUAB at the initial hearing shall become part of the administrative record.

Rule 10. Other Hearings.

The DUAB may conduct additional hearings as necessary at the direction of the chairperson of the DUAB.

Rule 11. Final Hearing.

Sec. 1. Timing of final hearing.

- (a) A reasonable time after the initial hearing, the chairperson of the DUAB shall set the final hearing date.
- (b) In the case of a petition by the governing body and the superintendent of a school corporation requesting review of a financial plan to repay refunding bonds under IC 5-1-5-2.5(d)(3)(A), the DUAB has 60 days to approve or deny the financial plan after the later of the date the school corporation submits its financial plan to the DUAB or the date on which the DLGF certifies the school corporation's circuit breaker impact percentage.

Sec. 2. The purpose of the final hearing is for the DUAB to vote on the school corporation or distressed unit's request from its petition.

Sec. 3. The final hearing and vote shall be conducted by at least a quorum of the DUAB.

Sec. 4. The DUAB shall consider the following prior to a vote on its recommendations:

- (a) Evidence, exhibits, briefs, and testimony submitted to the DUAB and part of the administrative record;
- (b) Any other factor considered relevant by the DUAB.

Sec. 5. The DUAB shall determine the relevance of the evidence, exhibits, briefs, testimony, documents, and any other factor.

Rule 12. Final Determination.

Sec. 1. Not more than seven (7) calendar days after the final hearing, the DUAB shall issue a written final determination. The final determination shall contain the following: the final vote of the DUAB on the petition taken at the final hearing and any recommendations by the board.

Sec. 2. The chairperson of the DUAB (or designee) shall sign the final determination on behalf of the DUAB.

Sec. 3. A copy of the final determination shall be provided by the DUAB to the school board or the governing body of the distressed political subdivision, the county auditor, State Treasurer, State Auditor, Department of Local Government Finance, and State Board of Accounts.

Rule 13. Waiver of Deadlines.

The chairperson of the DUAB may waive any deadlines.